

1 PHILLIP A. TALBERT  
2 United States Attorney  
3 JESSICA A. MASSEY  
4 Assistant United States Attorney  
5 2500 Tulare Street, Suite 4401  
6 Fresno, CA 93721  
7 Telephone: (559) 497-4000  
8 Facsimile: (559) 497-4099

9  
10  
11 Attorneys for Plaintiff  
12 United States of America

13  
14 IN THE UNITED STATES DISTRICT COURT  
15 EASTERN DISTRICT OF CALIFORNIA

16  
17  
18 UNITED STATES OF AMERICA,  
19 Plaintiff,  
20 v.  
21  
22 XAVIER ANTHONY RINCON  
23 A/K/A JAVIER ANTHONY RINCON,  
24 DEFENDANT.

25 CASE NO. 1:22-CR-00081-JLT-SKO  
26  
27 STIPULATION REGARDING EXCLUDABLE  
28 TIME PERIODS UNDER SPEEDY TRIAL ACT;  
ORDER  
  
CURRENT DATE: May 3, 2023  
TIME: 1:00 p.m.  
COURT: Hon. Sheila K. Oberto

19  
20  
21  
22  
23  
24  
25  
26  
27  
28 **STIPULATION**

1. By previous order, this matter was set for status on May 3, 2023.  
2. By this stipulation, defendant now moves to continue the status conference until August 16, 2023, and to exclude time between May 3, 2023, and August 16, 2023, under 18 U.S.C. § 3161(h)(7)(A), B(iv) [Local Code T4].

3. While the parties anticipate that the case may resolve without a trial, this is not yet a certainty. If defendant ultimately does not enter a guilty plea and decide to proceed to trial, the parties agree and stipulate, and request that the Court find the following:

a) The government asserts the discovery has been provided to counsel. The government is aware of its ongoing discovery obligation.

b) The parties are currently in plea negotiations and the government anticipates it will provide a plea offer in the coming weeks.

c) Counsel for defendant desires additional time to consult with their client, to review the current charges, to conduct investigation and research related to the charges, to review and/or copy discovery for this matter, to discuss potential resolutions with their client, to prepare pretrial motions, and to otherwise prepare for trial.

d) Counsel for defendant believes that failure to grant the above-requested continuance would deny them the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

e) The government does not object to the continuance.

f) Based on the above-stated findings, the ends of justice served by continuing the case as requested outweigh the interest of the public and the defendants in a trial within the original date prescribed by the Speedy Trial Act.

g) For the purpose of computing time under the Speedy Trial Act, 18 U.S.C. § 3161, et seq., within which trial must commence, the time period of May 3, 2023 to August 16, 2023, inclusive, is deemed excludable pursuant to 18 U.S.C. § 3161(h)(7)(A), B(iv) [Local Code T4], because it results from a continuance granted by the Court at defendants' request on the basis of the Court's finding that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial.

4. Nothing in this stipulation and order shall preclude a finding that other provisions of the Speedy Trial Act dictate that additional time periods are excludable from the period within which a trial must commence.

## IT IS SO STIPULATED.

Dated: : April 27, 2023

PHILLIP A. TALBERT  
United States Attorney

Dated: April 27, 2023

/s/ JEFFREY T. HAMMERSCHMIDT  
JEFFREY T. HAMMERSCHMIDT  
Counsel for Defendant

## ORDER

IT IS SO ORDERED.

DATED: 5/2/2023

Sheila K. Oberto  
Hon. Sheila K. Oberto  
U.S. Magistrate Judge